92-264

CableVision

MORE THAN JUST TELEVISION

February 4, 1994

RECEIVED

FEB 15 1994

FCC MAIL ROOM

Mr. Reed Hundt, Chairman
Federal Communication Commission
1919 M Street N.W.
Washington, D.C. 20554

Dear Chairman Hundt:

I am responsible for cable systems serving 105,000 subscribers in sixteen (16) Texas communities.

I "cut my teeth" in this industry working for my father in the 1950's when we sold cable TV for $5.00 per month for three channels -- I can still remember when we went to five channels! That is $1.67 per channel and $1.00 per channel respectively.

Today we provide outstanding service, answering service calls within three hours, 24 hours per day, and provide longer business hours than any utility or government entity in town for 58¢ per channel per month.

Presently, my company is engaged in the largest capital improvement program in its history, a twelve million dollar fiber optic upgrade. We are approximately 50% complete in the region. My second largest system (37,000 subs) is complete and we are proud, but very disturbed. This system enjoys a 75% saturation.

In order to begin to recoup some of this investment, we would like to offer new services and charge for those services -- like an optional tier, new basic channels, etc.

Believe me, Mr. Chairman, we cannot do this when our rates have been frozen for eleven months and are likely to see that freeze extended. I also hear that the FCC is toying with the ideas of regulating ala carte tiers.

In September of 1993, we eliminated the charge for additional outlets which will amount to $2,890,000.00 annually and will lose $1,900,000.00 in remote income, due to the new equipment charges.

Regional Office • 215 Factory Dr. • Waco, TX
P.O. Box 7852 • 76714-7852 • 817/776-2996

Our company has complied with every request, completed every form, and adjusted our rates according to the new benchmark, and now it appears that the FCC wants to reduce the benchmark in order to lower rates -- again!

I am sorry, Mr. Chairman, but I do not understand -- I really don't. Why are we being punished now -- what did we do this time? Who is complaining? Out of the 105,000 subscribers that we serve, I have received only one (1) official notice or complaint, and that complaint did not deal with rates.

You know what our subscribers want? - more services, more options, and they are happy to pay for them.

One of the more successful wireless operators will begin to offer service in our area in March! Competition -- you bet! Are their rates regulated? Are their rates frozen? Does the federal government dictate how they sell basic, tiers, PPV, etc.? The answer is NO!
I just don't understand. We have five (5) very prosperous television stations in our market. Yes, that's competition.

Please, Mr. Chairman, let us continue our business without any additional burdens.

In conclusion, let me say that being in the industry for thirty years has been a challenge and very rewarding in many ways, but today, Sir, it's just not fun anymore. It's disheartening to work as hard as we do, to provide the very best and in the best way we know how and then be "hammered" for what a very few have taken advantage of!

Please consider my thoughts, for they are from the heart and they <u>are real</u>!

Respectfully,

Johnny Mankin
Vice President and Regional Manager

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Respectfully,

Johnny Mankin
Vice President and Regional Manager

92-264

Insight
Communications Company

126 East 56th Street New York, N.Y. 10022 (212) 371-2266

RECEIVED

FEB 15 1994

FCC MAIL ROOM

February 1, 1994

Mr. Reed Hundt
Chairman
Federal Communications Commission
1919 M Street N.W.
Washington, DC 20554

Dear Mr. Hundt,

I have read with great concern that you are considering further reductions in the benchmark levels set by the Federal Communications Commission late last year. Please consider the overall effect of such an action both in the context of the near term and long term consequences.

Most cable operators have complied both with the spirit and the letter of your agency's new and most complex regulations. The industry, according to media analyst Paul Kagan, has seen a reduction in revenue of $2 billion annually under the current benchmarks and rate freeze. That reduction will not result in lower dividends to shareholders -- cable companies typically do not pay dividends. Instead, it will result in a reduction of the amount of capital the cable industry has available to it to construct modern fiber optic networks to compete effectively in the telecommunications arena. Cable already is saddled with the prospect of competing head-on with an industry five times its size. Even a slight adjustment in benchmarks indeed would have an extremely negative effect on our ability to raise capital. Such an occurrence is adverse to the development of a competitive business environment for which we all are striving.

I have heard talk from Capitol Hill that there seems to be a belief that whatever was done last year was not enough. As proof of just how much the current benchmarks have hurt, Falcon Cable Television, a 1 million plus subscriber MSO last Friday had to withdraw its previously announced public equity offering due to market discomfort over the possibility of further rollbacks. <u>A further reduction in our revenues will seriously hinder our ability to expand our networks, build new plant in outlying areas and continue to invest in improved customers service standards.</u> The event of last Friday is an indication of just how far the capital markets already have been pushed. The greatest shame is that it restrains that company from aggressively pursuing the course we all agree is in the consumers' best interest -- constructing a modern telecommunications superhighway.

You have it in your power to put an end to this period of deep discomfort and investment uncertainty. Please recognize that, for the most part, the industry rolled back rates in accordance with the complex rules and regulations which the Commission set up prior to your arrival. Whether or not you agree with what the Commission did, it's done. As far as I can tell, the industry complied with the new regulations with all good intentions. If there were mistakes or some few purposeful actions taken to circumvent the rules, then deal with those companies individually. Those of us who have complied with the spirit and the letter of the law do not deserve yet another round of uncertainty and further pain.

Finally, Mr. Chairman, our customers barely have gotten over the complexity and confusion of our recent rate adjustments. Resetting these rates again simply will cause a new round of frustration for them. Meanwhile, most of our franchising authorities have elected not to certify themselves because we maintain good relations in our communities and, like most cable operators, provide good service at fair prices. If you consider the number of rate complaints the Commission received nationwide, taking into account the organized efforts of certain groups to get complaints on file, surely you would agree that further action would simply be fixing something that isn't broken.

Please take into account that the reduction in revenue resulting from further rollbacks will interfere with our ability to invest in the future. Most cable companies rely on external capital sources and we therefore are significantly disadvantaged by this period of uncertainty. Our banks and the public equity and debt markets are deeply concerned about our ability to compete and without them we won't. As they see it, we continue to have our revenue limited or even reduced further while other much larger and richer industries are moving quickly by using their access to low cost capital to get the upper hand in the construction of the super-highway. The end result simply will be a single, high-priced toll road with one company acting both as the toll collector and highway patrol, determining who can travel and who cannot and at what price.

Sincerely yours,

Michael S. Willner
President

MSW/cm

92-266

RIGEL

February 4, 1994

RECEIVED
FEB 15 1994
FCC MAIL ROOM

The Honorable
Reed Hundt
Chairman
FEDERAL COMMUNICATIONS
COMMISSION
1919 M Street, N.W.
Washington, D.C. 20554

Dear Chairman Hundt:

As a small cable systems operator, I am writing to request that the Commission finally promulgate the specific waivers for small cable systems that is part of the Cable Television Reregulation Act. A lack of these waivers plus the continuing rate freeze has placed small cable systems in default of bank loans, has prevented expansions and extensions of our cable systems, and our increases in operating costs, particularly programming and pole rental rates, have left us in dire financial straits threatening our very existence and the cable television services that we provide to our rural customers.

I am attaching specific examples of our current hardship plus recommendations that you act immediately on the waiver provisions.

Sincerely,

Douglas J. Feltman

Douglas J. Feltman
President (g.y.)

DJF:gy

Attachment

bcc: CATA

RIGEL COMMUNICATIONS INC., 70 LEACH HOLLOW ROAD, SHERMAN, CT 06784
(212) 686-2230 (203) 354-9945

RIGEL

February 4, 1994

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James Quello
Commissioner
FEDERAL COMMUNICATIONS
COMMISSION
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Washington, D.C. 20554

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RIGEL COMMUNICATIONS INC., 70 LEACH HOLLOW ROAD, SHERMAN, CT 06784
(212) 686-2230 (203) 354-9945

February 4, 1994

Ms. Sandy Wilson
Acting Chief
Cable TV Bureau
FEDERAL COMMUNICATIONS
COMMISSION
1919 M Street, N.W.
Washington, D.C. 20554

Dear Sandy:

As a member of the Small Cable Business Association, I appreciate that you met with us once again and listened patiently to our problems.

As a small cable systems operator, I am writing to request that the Commission finally promulgate the specific waivers for small cable systems that is part of the Cable Television Reregulation Act. A lack of these waivers plus the continuing rate freeze has placed small cable systems in default of bank loans, has prevented expansions and extensions of our cable systems, and our increases in operating costs, particularly programming and pole rental rates, have left us in dire financial straits threatening our very existence and the cable television services that we provide to our rural customers.

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(212) 686-2230 (203) 354-9945

92-266

PROFILE OF RIGEL COMMUNICATIONS INC. IN GEORGIA

9100 total subscribers. (30 head ends) (303 average subscribers per head end)

20 subscribers per mile.

15 employees.

20 channels (average).

No Pay Per View - system is too small.

No advertising revenue - system is too small.

Construction:

1992 - 12 miles of plant were built as part of a plan to upgrade signal quality, add additional channels, and expand system.

1993/1994 - Forced to cancel plans for an additional 15 miles of plant to new subdivisions. (The rules do not allow for the recapture of construction costs, and small systems do not have ancillary income from local advertising and Pay Per View to make up for this gap in the rules.)

Value of canceled construction is $180,000. Also had to cancel planned employment of an additional full time installer.

What is a Small Cable Operator?

A "small" cable system has not yet been adequately defined. "Small" is a relative term as can be seen by the following examples:

a) SBA definition of a small business: Annual gross of $7,500,000. (Approximately 21,000 cable subscribers.)

b) USTA definition of a small telephone company: 50,000 lines — annual gross of about $31,200,000. (86,666 cable subs.)

c) A cable system that has less than 40 homes per mile?

d) A cable system that employs less than ten people?

e) A cable system that pays on average 35% more for programming than other systems?

f) A cable system where the local newspaper headlines a story about a driver veering off the road to avoid a rabbit?

SMALL CABLE OPERATORS AND THE "BENCHMARKS"

1. Density is to cable as location is to real estate. Density is the key factor in determining the success of a cable system. It affects construction costs, truck costs, manpower costs, utility costs, etc. Yet this vital factor was not considered when the Benchmarks were established. Thus, small cable systems, with low density, were penalized. Following is a comparison of two systems in Middle Georgia, only 15 miles apart from each other:

System A:	Jeffersonville, Georgia 29 homes per mile 62% penetration = 18 subscribers per mile Total subscribers - 240 Cost of construction - $10,000 per mile Construction cost per subscriber - $542
System B:	Macon, Georgia 65 homes per mile 67% penetration = 44 subscribers per mile Total subscribers - 65,194 Cost of construction - $12,000 per mile Construction cost per subscriber - $273

System A must charge more per month per subscriber in order to recapture construction costs. This is true whether or not **System A** is owned by an Independent or a large MSO. The deciding factor is "density."

2. "Competitive" markets that were used to determine the benchmarks were competitive for a relatively short time. Two competitive systems that were originally used in the Database calculations have already gone out of

business because their rates were artificially low. Yet existing systems are being asked to follow these very same artificially low benchmarks.

3. The FCC Rate Database covers so few homes in rural areas (under 40 homes per mile) where competition exists, that the Database is statistically insufficient to determine Benchmark Rates for systems with density of under 40 homes per mile. Only 65/100 of 1% of the homes in the Database are in areas of less than 40 homes per mile where type B or C competition exists. Therefore, the FCC Rate Database and the Benchmark Rates derived from this Database should not apply to rural systems. (For a full exposition of the statistical inadequacy see filing by Televista Communications in MM Docket No. 92-266, July 29, 1993.)

4. The disparity in programming costs were not taken into account when the Benchmarks were created. Programming costs for small cable systems are thirty to forty percent higher than that of large systems. Volume discounts are rampant and out of control -- this is particularly true for large vertically integrated MSO's that control programming.

Rate cards for Discovery, The Nashville Network, C-SPAN and Home Box Office indicate the depth of the problem. Bear in mind that the rate card is only the starting point for negotiations by large MSO's whereas a small cable operator has no leverage and always pays rate card. For example:

	10,000 subs	1,000,000 subs
The Nashville Network	30¢	19.5¢
The Discovery Channel	21.6¢	14.5¢
C-SPAN	4¢	2.5¢
Home Box Office	$6.29	$5.03

Small Cable Operators and the Benchmarks (continued)

5. Other operating costs are out of proportion for the small vs. large cable systems:

Per Subscriber Operating Expenses

	Small Cable System	Large Cable System
Accounting	Higher!	Lower
Advertising	Lower	Higher!
Bookkeeping	Equal	Equal
Cleaning	Higher!	Lower
Computer expenses	Higher!	Lower
Conventions	Higher!	Lower
Dues and subscriptions	Higher!	Lower
Electricity	Higher!	Lower
Franchise fees	Equal	Equal
Insurance	Higher!	Lower
Bank interest	Higher!	Lower
Legal	Higher!	Lower
Office expenses	Higher!	Lower
Pole line attachments	Higher!	Lower
Programming costs	Higher!	Lower
Repairs & maintenance	Higher!	Lower
Telephone	Equal	Equal
Truck expenses	Higher!	Lower
Technicians	Higher!	Lower
Management	Higher!	Lower
Secretarial	Lower	Higher!
Building		
Rent	Lower	Higher!
If constructed by cable operator	Equal	Equal

Technical Staff

	Small Cable System	Large Cable System
Homes per mile	29	65
Technicians required per 4,000 subscribers	2*	1
Installers required per 4,000 subscribers	2*	1
Technician annual salary	$27,000	$30,000
Installer salary	$18,000	$20,000
Total annual technical costs per 4,000 subscribers	$90,000	$50,000
Monthly technical costs per 4,000 subscribers	$1.87	$1.04

*Due to lengthy drive time in low density system.

Trucks

	Small Cable System	Large Cable System
Homes per mile	29	65
Gasoline - cost per gallon	$1.05	$0.99
Distance between homes	260 feet	44 feet
Replace brakes	Every 6 months	Every 4 years
Replace clutch	Every 18 months	Every 4 years
Replace tires	Every 18 months	Every 4 years
Cost of bucket truck	$55,000	$49,000
Average monthly cost of truck operation	96¢ per subscriber	20¢ per subscriber

The "Lost" Two Years

Small cable operators have lost two important years of growth -- 1993 and 1994. We have been unable to make improvements in our plant, add channel capacity, construct new plant, borrow funds, improve service and do those things necessary to prepare for DBS, MMDS, and other potential competition. Momentum is difficult to recapture:

Actual additional costs spent by Rigel Communications Inc. due to the new rules:

		Total
Legal:	1992	$1848
	1993	$7175

Accounting:

Staff time: 1992 — 0

1993 -- estimated $20,000 in allocated time

Retransmission consent: 1992 - 0

1993 and future years -- $20,000

Extra mailings: 1993 -- $4,500

Total additional costs represent over 2% of annual gross!

Summary

We urge the following:

1. The FCC should commence a rulemaking addressing small system regulatory concerns. The Commission could comprehensively examine, in a separate proceeding, the impact of its regulations on small operators. This rulemaking could identify regulations which, when applied to small operators, are presumptively more harmful than to larger cable systems. Alternatives to Benchmark regulations for small systems could be discussed, particularly in relation to the disparity in subscriber density. Small cable systems cannot be allowed to have the same rules as larger systems for the sake of the FCC's simplicity of regulation.

2. Allow small operators to pass-through rebuild and expansion costs! Small operators are generally located in rural areas. Congress and the FCC have long advocated special regulatory treatment to make state-of-the-art communications technology available to rural areas. Permitting small operators to pass-through rebuild costs will increase the chances that rural subscribers promptly gain the benefits of such technology and be participants in Universal Service.

3. Any new cable laws promulgated, should permit joint ventures or acquisitions between rural cable and telephone operators. Without these joint operations, there will be no economic justification for the benefits of the Information Superhighway to be extended to rural areas. In fact, economists

have predicted that rural cable systems may be forced out of business, leaving many of their customers without any viable option for television entertainment.

4. Immediately allow small cable systems to increase their basic rates by the increase in costs, particularly programming, pole rental, legal and accounting. Any further continuation of the rate freeze will result in many small cable systems going bankrupt, with a potential disruption of cable television service in many rural towns.